FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

Second Appeal No. 85/2007

Appeal Application No. Writ petition	District : of 200

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

CORAM : Smt. V. A. Naik, J.
DATED : April 13, 2007.

Heard Shri Rajkarne for the appellant, and Mrs. Dharmadhikari for the respondent.

The appellant is the original defendant. A suit was filed by the plaintiff for possession of the suit property, on the basis of title. The claim of the plaintiff was denied by the defendant and the defendant pleaded that she had become the owner of the suit property by adverse possession. The trial Court held that the plaintiff had proved the title to the suit property and the defendant failed to prove that she became the owner of the suit property by adverse possession. The Court granted a declaration of ownership in favour of the plaintiff. However, the suit filed by the plaintiff for possession of the suit property was dismissed solely on the ground that the suit was barred by limitation.

The defendant had challenged the

judgment passed by the trial Court on all other issues except on the issue of limitation. The defendant was aggrieved by the findings recorded by the trial Court about the ownership of the plaintiff and about the failure on the part of the defendant to prove his adverse possession over the suit property. The plaintiff was aggrieved by the finding on the issue of limitation and hence challenged the judgment of the trial Court only on that issue. Both the appeals were decided by a common judgment.

After properly appreciating the evidence on record, the appellate Court maintained the findings recorded by the trial Court on the issue of ownership of the property and on the issue of adverse possession but by allowing the appeal of the plaintiff, held that the suit was not barred by limitation.

The findings recorded by the appellate Court are pure findings of facts which do not give rise to any substantial question of law. The second appeal is, therefore, dismissed with no order as to costs.

JUDGE

RMP